United Nations S/2015/80

Security Council

Distr.: General
2 February 2015

Original: English

Letter dated 2 February 2015 from the Ombudsperson to the President of the Security Council

I have the honour to submit herewith the ninth report of the Office of the Ombudsperson, pursuant to paragraph 20 (c) of annex II to Security Council resolution 2161 (2014), according to which the Ombudsperson shall submit biannual reports to the Council summarizing her activities. The report describes the activities of the Office of the Ombudsperson in the six months since the previous report was issued, covering the period from 1 August 2014 to 31 January 2015.

I would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Kimberly **Prost**
Ombudsperson

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Report of the Office of the Ombudsperson pursuant to Security Council resolution 2161 (2014)

I. Background

1. The present report provides an update on the activities undertaken by the Office of the Ombudsperson since the issuance of the eighth report of the Office (S/2014/553) on 31 July 2014.

II. Activities related to delisting cases

General

2. The primary activities of the Office of the Ombudsperson during the reporting period related to delisting requests submitted by individuals and entities.

Delisting cases

3. During this reporting period, six new cases were submitted to the Office of the Ombudsperson. All six petitions were accepted. The total number of delisting petitions submitted since the establishment of the Office is 61 as at 31 January 2015. Unless the petitioner requests otherwise, all names remain confidential while under consideration and in the case of denial or withdrawal of a petition.

4. In total, the Ombudsperson has submitted 52 comprehensive reports to the Security Council Committee pursuant to resolutions 1904 (2009), 1989 (2011), 2083 (2012) and 2161 (2014) concerning Al-Qaida and associated individuals and entities since the Office was established. During the reporting period, she submitted four reports and appeared before the Committee on four occasions to present four cases.

5. Since the issuance of the eighth report, three individuals[1] and one entity[2] have been delisted through the Ombudsperson process.

6. Cumulatively, since the Office was established, 51 cases[3] involving requests made to the Ombudsperson by an individual, an entity or a combination of both have been resolved through the Ombudsperson process or through a separate decision of the Committee.[4] In the 48 cases fully completed through the Ombudsperson process, 37 individuals and 28 entities have been delisted, one entity has been removed as an alias of a listed entity, six delisting requests have been refused and one petition has been withdrawn. In addition, three individuals were delisted by the Committee before the Ombudsperson process was completed. A description of the status of all of the cases, as at 31 January 2015, is contained in the annex to the present report.

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[1] Wa'el Hamza Abd al-Fatah Julaidan, Aqeel Abdulaziz Aqeel al-Aqeel and Ismail Mohamed Ismail Abu Shaweesh.

[2] Al-Haramain Foundation (United States of America).

[3] In one case, the petition was withdrawn after the comprehensive report was submitted, and therefore the matter was not decided upon through the Ombudsperson process or otherwise.

[4] This figure includes three individuals delisted by the Committee before the Ombudsperson process was completed.

7. There are seven cases pending before the Ombudsperson in the information-gathering or dialogue phase, and two which are before the Committee for consideration at the time of preparation of this report. The six requests submitted to the Office during the reporting period were presented by individuals. To date, in total, 53 of the 61 cases have been brought by individuals, two by an individual together with one or more entities and six by entities alone. In 32 of the 61 cases, the petitioner is or was assisted by legal counsel.

Gathering of information from States

8. In the six new cases, 20 requests for information have been sent so far, to 14 States. With respect to the four cases for which comprehensive reports were submitted to the Committee during the reporting period, there were two instances when a State from which information had been requested failed to respond. However, that State was not a State of residence/nationality or a designating State. In addition to the responses received from States to which requests were specifically directed, some Committee members provided information as a result of the general circulation of petitions.

9. During the reporting period, the Ombudsperson met on three occasions with officials in capitals on specific cases to gather information directly.

10. Paragraph 3 of annex II to resolution 2161 (2014) provides the Ombudsperson with the discretion to shorten the information-gathering period in cases where all the designating States consulted do not object to delisting. The Ombudsperson was able to do so in one case during the reporting period.

Dialogue with the petitioner

11. During the six months under review, the Ombudsperson interacted with all petitioners during the dialogue phase of pending cases, including through e-mail exchanges, telephone discussions and face-to-face interviews. During the reporting period, the Ombudsperson travelled to interview three petitioners in person.

Provision of comprehensive reports to interested States

12. As noted in the eighth report, resolution 2161 (2014) introduced the possibility to disclose information to interested States which are not members of the Committee. Paragraph 13 of annex II stipulates that, if requested, the Ombudsperson may provide a copy of the comprehensive report to an interested State (designating State, State of nationality, residence or incorporation) with the approval of the Committee and any redactions needed to protect confidential material. In the reporting period, the Ombudsperson received three requests for disclosure from States. To date, one of these has been approved by the Committee and transmitted, while two were pending at the time of this report.[5]

Access to classified or confidential information

13. One new arrangement for access to classified or confidential information was entered into during the reporting period, with Ireland. To date, there is one formal agreement with Austria and 14 arrangements with Australia, Belgium, Costa Rica,

[5] The remaining requests are pending before the Committee or the Ombudsperson.

Finland, France, Germany, Ireland, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Portugal, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

14. Further progress on expanding the list, in particular to other States often involved in the Ombudsperson process, is urgently needed and discussions are ongoing with a number of States in this regard.

III. Summary of activities related to the development of the Office of the Ombudsperson

General

15. Activities to further develop and strengthen the Office of the Ombudsperson continued during the reporting period to the extent possible.

Outreach and publicizing of the Office

16. The Ombudsperson participated in some outreach activities, as far as possible given the limitations on time and resources.

17. In September, the Ombudsperson delivered a lecture at the University of Manitoba Law School in Winnipeg, Canada, on fair process and the Al-Qaida sanctions Committee. Later that month, she participated in a regional workshop of the Asia/Pacific Group on Money Laundering held in Jakarta, delivering a presentation on the Office of the Ombudsperson and exchanging views with participants regarding implementation of Recommendation 6 of the Financial Action Task Force on targeted financial sanctions. In October, the Ombudsperson chaired a panel at the annual meeting of legal advisers held in New York on the topic "United Nations Security Council targeted sanctions and individual rights". In November, the Ombudsperson met with Parliamentarians in Berlin to discuss the work of her office. Under the joint sponsorship of the Institute for International Peace and Security Law, the University of Cologne and the Fritz Thyssen Stiftung and at the invitation of the Chair for German and International Criminal Law at the University of Cologne, she delivered a lecture in Cologne on 13 November entitled "Security Council sanctions and the rule of law: the role of the Ombudsperson under Security Council resolution 2161 (2014)". In December, the Ombudsperson provided a briefing for new members of the Security Council.

18. The Ombudsperson was an active participant in the meetings on the high-level review of sanctions in the latter half of 2014. The Ombudsperson attended meetings of all three Working Groups and was invited to make oral presentations to Working Groups 1 and 2. She also provided written submissions to all three Working Groups.

Interaction with the Security Council and the Committee pursuant to resolutions 1267 (1999) and 1989 (2011)

19. On 23 October 2014, the Ombudsperson provided an oral briefing to the Security Council during the open debate on working methods of the Security Council.

20. Since 1 August 2014, the Ombudsperson has appeared before the Committee on four occasions to present four cases: on 26 August in the case of Al-Haramain

Foundation (United States of America) (delisted; formerly QE.A.117.04.), on 31 October in the case of Aqeel Abdulaziz Aqeel al-Aqeel (delisted; formerly QI.A.171.04.), on 16 December in the case of Ismail Mohamed Ismail Abu Shaweesh (delisted; formerly QI.A.224.06.) and on 29 January 2015 with reference to a case which is still pending decision. In addition, the Ombudsperson provided a number of written updates to the Committee in relation to various cases as they progressed through each phase.

21. As previously, the Ombudsperson and staff in her Office have continued to engage regularly with the Coordinator and members of the Monitoring Team. The Team has continued to provide relevant information in accordance with paragraph 4 of annex II to Security Council resolution 2161 (2014). During this reporting period the Team has also given expert advice on issues relevant to particular requests.

Liaison with States, intergovernmental organizations, United Nations bodies and non-governmental organizations

22. The Ombudsperson and staff in her Office continued to interact with States during the reporting period, in particular States of relevance to the pending delisting petitions. In this reporting period the Ombudsperson and staff in her Office also had several bilateral meetings with States interested in the work of the Office in order to discuss general issues and recent legal cases. Discussions also have been held with a number of States concerning agreements or arrangements on access to confidential or classified information. Further, the Ombudsperson maintained contacts with the informal Group of Like-Minded States on Targeted Sanctions.[6] The Ombudsperson also met with some State officials in their capitals for general discussions and to obtain information regarding particular cases.

23. The Ombudsperson and staff in her Office continued to interact with representatives of the Counter-Terrorism Implementation Task Force and the Counter-Terrorism Committee Executive Directorate, as well as with the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Human Rights.

24. During the reporting period, the Ombudsperson also had meetings with representatives of non-governmental organizations including Security Council Report and Human Rights Watch. The Ombudsperson also interacted with legal advisers during their annual meeting in New York in October and has interacted with members of the judiciary from various States and international courts. Further, the Ombudsperson had several exchanges with academics on the work of the Office.

Working methods and research

25. As previously, casework in this reporting period involved open-source research and contacts with journalists and authors to collect information and verify sources for publicly available case-related material.

26. The Ombudsperson continued to follow developments and collected information with regard to relevant national and regional legal cases. She has also discussed general legal issues of relevance with counsel in the Office of Legal

[6] Comprising Austria, Belgium, Costa Rica, Denmark, Germany, Finland, Liechtenstein, the Netherlands, Norway, Sweden and Switzerland.

Affairs and that Office has continued to provide assistance to the Ombudsperson on various matters.

Website

27. The website of the Office of the Ombudsperson (www.un.org/en/sc/ombudsperson) continues to be revised and updated.

IV. Other activities

Notifications of listing

28. In accordance with paragraph 20 (b) of annex II to resolution 2161 (2014), when an individual or entity is added to the list and relevant States have been notified, the Ombudsperson is to send a notification directly to that individual or entity if there is a known address.

29. In the six months since the eighth report was issued, 18 individuals and 4 entities have been added to the Al-Qaida sanctions list. Each of those listings was considered with reference to the question of notification. In one case an address was available and a notification was sent. In the remaining cases, there was no address or the information was such that there was no reasonable prospect of the notification reaching the addressee.

30. Consistent with the intention of paragraph 20 (b), the Ombudsperson has sent similar notification letters to individuals and entities listed prior to the establishment of the Office, both to those for whom there were addresses and to those for whom address information has subsequently become available. In this reporting period, in response to requests made for contact information, the Ombudsperson received addresses for previously listed individuals from two States, with respect to 20 individuals. The Ombudsperson has sent notifications to all those individuals. In this period, the Office received a delisting request which was triggered by one of the notices sent.

Miscellaneous matters

31. The Ombudsperson and her Office continued to receive and respond to various enquiries about the Committee and the Ombudsperson process. These included requests for assistance and information from State representatives, United Nations agencies, non-governmental organizations, lawyers, listed individuals, the media, academics, students and the general public.

V. Future work

32. As previously, the paramount activity of the Office of the Ombudsperson will continue to be related to the delisting requests. Six petitions were received in this reporting period, an increase since the last reporting period.[7] The process continues to attract a steady number of requests. As noted previously, some listed persons and

[7] Four cases were submitted in the previous reporting period.

entities remain unaware of the Ombudsperson process and efforts to disseminate information in that regard continue.

33. Given the inconsistent trend and various factors noted in my previous reports, it remains difficult to anticipate the future caseload with any certainty. However, on the basis of recent patterns of activity and taking these various factors into account, it is reasonable to assume that the Office of the Ombudsperson will receive approximately four requests in the next six-month period and that five cases will be active at the end of the next reporting period.

34. Because of the continuing challenges associated with the lack of access to classified material, the development of arrangements or agreements for access to classified or confidential information will remain the second priority for the Office of the Ombudsperson in the upcoming period. The Office will maintain its efforts to raise the issue with States, to enable the Ombudsperson to access critical information of relevance to delisting petitions.

35. Finally, the Ombudsperson and her Office will continue to carry out outreach and liaison activities as appropriate, in order to make the process more visible and understandable to potential petitioners and other interested actors.

VI. Observations and conclusions

Fair process

36. As highlighted by the Ombudsperson in her oral briefing to the Security Council in October, while international law in this area continues to evolve, a consistent message comes from the relevant international instruments, authorities and jurisprudence. The imposition of targeted sanctions, which directly affect the rights of individuals and entities, without the availability of an independent review mechanism which can deliver an effective remedy, is a practice inconsistent with fundamental human rights obligations. The Ombudsperson mechanism has been criticized in principle for not going far enough in this regard, in particular as the decisions of the Ombudsperson are not fully binding. However, it has not been disputed that in practice, if the recommendations of the Ombudsperson are followed, as they have been to date, the mechanism can deliver a fair process and independent review, with the availability of an effective remedy for individual petitioners.

37. Through extensive practice over four and a half years of operation, the Ombudsperson mechanism has consistently met these goals with respect to the delisting applications presented, as highlighted in previous reports.[8] Once again in the cases completed in this reporting period, the petitioner was informed of the case underlying the listing, and had an opportunity to respond and to be heard by the decision maker through the Ombudsperson's comprehensive report. All the Committee decisions on delisting petitions made during the reporting period were premised solely on information gathered by the Ombudsperson and followed her recommendation. In no case did the Committee take a decision by consensus contrary to the recommendation and no matter was referred to the Security Council.

[8] See in particular the detailed discussion in the sixth report (S/2013/452), paras. 28-32. See also the eighth report (S/2014/553), para. 34; the seventh report (S/2014/73), para. 32; and the fifth report (S/2013/71), paras. 28-30.

As a result, each petitioner benefited from an effective, independent review of the basis for the listing and the information supporting the same.

38. Further, with additional experience, the positive comments made about the robustness of the protections to the fairness of the process,[9] arising from the procedures designed by the Security Council, have only been reinforced. Committee member interaction with the Ombudsperson with regard to the comprehensive reports has increased in scope and thoroughness both at the individual and the collective level. This too has added to the thoroughness and effectiveness of the mechanism. The firm timelines for the process also continue to ensure a strong and effective mechanism for the efficient consideration of delisting petitions.

Transparency of the process

Interested States

39. As discussed in the eighth report, resolution 2161 (2014) introduced an important change in allowing for the release of the comprehensive report to specified interested States, upon request and with the consent of the Committee. As mentioned above, within this reporting period three States have sought the release of a comprehensive report, illustrating interest in the Ombudsperson process and in the individual delisting requests. This enhanced transparency is useful in terms of the relationship between the Office of the Ombudsperson and the States involved and more generally in demonstrating the overall fairness of the Ombudsperson mechanism. Going forward, consideration should be given to allowing for more general access by States to the comprehensive reports of the Ombudsperson. As an initial step, the body of "interested States" could be expanded from the designating States and States of residence/nationality/incorporation to any State from which information was sought or provided in the particular case. These "relevant" States often have a significant interest in the particular case for a variety of reasons and access to the comprehensive report could be of value and assistance to the authorities of the same.

The petitioner and the public

40. As discussed in the eighth report, no other improvements have been made to the transparency of the process and this remains the most significant fair process lacuna in the context of the Ombudsperson mechanism. The petitioner has no possible access to the comprehensive report. In terms of the general public — including interested legal authorities, judges and academics — disclosure is even more limited. While the petitioner is informed of the basis of the listing through the interview and reasons provided at the end of a case, the only information available to the general public about individual listings is that set out in the narrative summary of reasons on the website of the Al-Qaida sanctions Committee. No information is available as to the substance of the delisting applications, the issues considered and the basis for the decisions to retain the listing or to delist. None of the information gathered in particular delisting cases and no parts of the comprehensive report can be disclosed by the Ombudsperson. These constraints on transparency have no basis in the need to protect confidential information. The comprehensive reports can easily be adjusted to remove any sensitive or confidential material.

[9] See the fourth report (S/2012/590), paras. 30-32.

41. As a result, the Ombudsperson process remains one which is unnecessarily shrouded in mystery. Regrettably, this means that, while detailed documents exist to demonstrate the reasoned nature of the process, they are not made available. Moreover, despite the aims of the sanctions to prevent terrorist support and activities and to change conduct, information which gives a clear indication of the types of actions targeted by the sanctions regime is not available beyond the Security Council, some interested States and the Ombudsperson.

42. In this reporting period, the problem with a lack of transparency has manifested itself most clearly in the context of reasons for retention and delisting.

Provision of reasons for delisting and retention

43. From the adoption of resolution 2083 (2012), the Security Council has mandated that decisions to delist or retain made through the Ombudsperson process will be accompanied by reasons. Previous reports have noted that, for delisting cases, there have been extensive delays in the communication of the reasons by the Committee and the letters which were sent had relatively limited factual and analytical references.[10] Security Council resolution 2161 (2014) partially addressed the problem by providing for a 60-day deadline for the transmittal of reasons by the Committee to the Ombudsperson. While ensuring that some form of communication will now be provided within a reasonable time frame, the change has not addressed the problem with the content of the letters in delisting cases. In fact, the imposition of the deadline, at least in application to the backlog, has exacerbated the difficulty with limited factual and analytical references. Specifically, in this reporting period a number of communications from the Committee transmitted by the Ombudsperson to the petitioners in accordance with paragraph 16 of annex II to resolution 2161 (2014) contained no factual or analytical references. In the opinion of the Ombudsperson, these communications did not comply with the requirement for reasons to be provided as mandated by resolution 2161 (2014).

44. This result is disappointing in that the reasons provide the sole opportunity to publically demonstrate to the petitioner, and more broadly, the reasoned nature of the decision-making process which led to delisting. This approach perpetuates an appearance of arbitrariness with respect to a process established by the Security Council which can otherwise be demonstrated to meet the requirements of fairness. As such, this lack of transparency jeopardizes the overall fairness of the procedure and most significantly the perceptions as to its reasonableness.

45. As discussed in the seventh and eighth reports,[11] concerns also remain with respect to reasons in retention cases. As the listing is maintained on the basis of the recommendation of the Ombudsperson, which in turn arises from the analysis in the comprehensive report, it is crucial for the fairness of the process that the reasons provided be consistent with the observations, analysis and findings of the Ombudsperson. The reasons must also reflect the comprehensive nature of the report mandated by the Security Council and the fact that the procedure ensures that the petitioner is fully heard by the Ombudsperson and the Committee. To this end, the reasons must respond to the arguments advanced by the petitioner and any information produced in support. Experience indicates that problems with respect to

[10] See for example the seventh report (S/2014/73), paras. 38 and 39.

[11] See the seventh report (S/2014/73), paras. 43-45; and the eighth report (S/2014/553), paras. 39-42.

the fullness and accuracy of the retention reasons will continue to persist so long as the current structure — according the responsibility for the reasons to the Committee — is retained.

46. As noted in my eighth report, the serious challenges with respect to reasons can best be addressed by according the responsibility for reasons to the Ombudsperson, in both delisting and retention cases, with appropriate safeguards regarding the release of confidential material. The only exception to this should be in the case of a Committee reversal or a Security Council decision, where responsibility for reasons would appropriately be left to the Committee and the Council respectively. This structure would be properly reflective of the process as a whole and would significantly enhance its fairness, transparency and efficiency.

Cooperation of States/State support for the Office of the Ombudsperson

47. State cooperation in terms of responses remained strong in this reporting period. All designating States and States of residence/nationality have replied in the cases completed. Moreover, the Ombudsperson has met and engaged with States involved in individual cases and this has resulted in specific action being taken by the States with reference to pending cases. Further, at recent debates relating to sanctions and counter-terrorism, in the Security Council and other forums, multiple States across regional groupings have expressed support for the work of the Office of the Ombudsperson.[12]

Access to confidential or classified material

48. As previously, the major challenge in cooperation and the most significant limitation to the effectiveness of the Ombudsperson process remains access to confidential or classified material. Recent delisting petitions considered through the Ombudsperson process have demonstrated the increasingly acute need for the Ombudsperson to be able to review confidential material. Such information is critical to a comprehensive and accurate assessment of the listing and imperative to a full analysis of the petition presented.

49. Despite renewed efforts in this reporting period, only one new arrangement was agreed, bringing the number of agreements/arrangements for access to such information to 15. In order to ensure that the Ombudsperson process properly balances all of the interests underlying the sanctions process, more agreements/arrangements are urgently needed — particularly with States which often hold key information for the listings. Efforts in this regard continue.

Humanitarian exemptions

50. Experience in this reporting period has reinforced the views expressed in the eighth report that responsibility for conveying requests for humanitarian exemptions within the Al-Qaida regime should be assigned to the Ombudsperson. Further,

[12] See for example the 7285th meeting of the Security Council, on working methods, held on 23 October 2014; the 7316th meeting, on threats to international peace and security caused by terrorist acts, held on 19 November 2014; and the 7323rd meeting, on general issues relating to sanctions, held on 25 November 2014; the meeting of legal advisers held in New York on 27 October 2014; the report on the high-level review of United Nations sanctions on 31 October 2014 and the fourth review of the United Nations Global Counter-Terrorism Strategy held in New York on 11 June 2014.

interaction with petitioners during this reporting period supports the statement that the process of having a different authority and procedures to deal with a request related to the same listing is very confusing and does not generate confidence in either procedure. To date, it has only served to deter individuals from pursuing what may be well motivated and justified requests for humanitarian exemptions. While access to the Focal Point for this purpose in other regimes, for which the Ombudsperson is not mandated, would be evidently beneficial to listed individuals and entities, in the context of the Al-Qaida regime it does not serve the intended purpose of encouraging use of the exemptions provided for by the Security Council.

Independence of the Office of the Ombudsperson

51. In resolution 1904 (2009) the Security Council decided that, when considering delisting requests, the Committee shall be assisted by an Office of the Ombudsperson. However, as noted in the eighth report, in the light of the contractual, administrative and staffing arrangements through which the resolution mandate has been implemented, no separate office has ever been established.

52. Further, the Security Council has requested that the capacity of the Office of the Ombudsperson be strengthened to ensure its continued ability to carry out its mandate in an independent, effective and timely manner. Over the four and a half year period of operation, the Office of the Ombudsperson has fulfilled the mandate accorded to it by the Security Council in an independent manner. The work of the Office has been carried out autonomously and in each of the concluded cases the individual or entity involved has benefited from a fair and impartial process, which has included an objective review of the factual basis for the listing. However, this has not been as a result of any structural capacity or protections for independence. On the contrary, the applicable administrative arrangements put in place for the Ombudsperson, particularly for budget, staffing, staff management and resource utilization, lack the critical features of autonomy. Further, the contractual arrangements for the Ombudsperson are not consistent with the mandate accorded by the Security Council and contain insufficient safeguards for independence. Once again during this reporting period tensions have arisen because of a mandatory requirement of the contract which has been chosen for use, which raises the potential for interference with the performance of the mandate by the Ombudsperson. In practice, the personal efforts of the Ombudsperson, relevant officials within the Department of Political Affairs, and the staff members assigned to the Office have protected the independence of the Ombudsperson and the Office. However, this is evidently not what was foreseen by the Security Council in the mandate accorded and it is an extremely fragile basis for ensuring the independence of the Office of the Ombudsperson, particularly when in future it undergoes normal transition.

53. As noted previously, given the extension of the mandate of the Office of the Ombudsperson for an additional period of 30 months from July 2015, urgent consideration needs to be given to establishing contractual arrangements and a structure which implement the Security Council mandate for an Office of the Ombudsperson and which provide for institutional independence for the Ombudsperson and the Office.

Conclusions

54. The Office of the Ombudsperson, since its establishment, has provided individuals and entities listed by the Al-Qaida sanctions Committee with a fair and accessible recourse, which includes an independent review of factual information and is consistent with the fundamental precepts of fairness. As such, it evidently serves to protect individual rights and safeguard fundamental fairness in the context of the work of the Security Council. At the same time, the mechanism strengthens the effectiveness and credibility of the Al-Qaida sanctions regime. Because there is recourse available at the international level through which individuals and entities can challenge their inclusion in the list, the need for resort to domestic or regional courts is reduced. Further, as the protections are built into the system at the international level, they can properly reflect a uniform approach, regardless of the location of the petitioner, and ensure the application of standards appropriate for a procedure related to the sanctions measures of the Security Council. In addition, the availability of these protections and an effective remedy at the international level better equips States to respond to, and overcome, political, policy and legal concerns which impede effective implementation of the sanctions measures domestically and regionally.

55. Thus, the Office of the Ombudsperson continues to serve as a mechanism which supports the fairness and credibility of the Al-Qaida sanctions regime, in turn strengthening the effectiveness of the sanctions measures.

56. While the Ombudsperson process remains a robust one, there are limitations to its fairness and effectiveness arising principally from a lack of transparency of procedures, especially in the latter stages of the process. Of particular concern currently is the reluctance, despite the mandate of the resolution, to provide substantive reasons in delisting cases for the decisions taken. This only serves to perpetuate views as to the arbitrariness of the process. Similarly, unless the Ombudsperson is given the responsibility to provide reasons in retention cases, there will continue to be concerns about the consistency and sufficiency of the reasons in comparison to the comprehensive report.

57. As described above, significant general deficiencies also remain in the transparency of the process, particularly in relation to the public dissemination of information and from the perspective of the petitioner.

58. In terms of practical challenges, access to confidential or classified material remains a paramount concern. Recent cases highlight that such material may be essential for the Ombudsperson to conduct a full and accurate review of the information underlying a listing and to make a correct and appropriate recommendation. The need for further arrangements/agreements in this regard is a pressing one which will continue to be pursued.

59. Finally, with the extended mandate of the Ombudsperson accorded under resolution 2161 (2014), the contractual status of the Ombudsperson and the administrative arrangements surrounding the Office of the Ombudsperson should be reviewed with a view to institutionalizing the Office and according it proper safeguards for independence.

60. Despite these remaining challenges, however, the Ombudsperson mechanism established by the Security Council has continued to deliver a fair process and to contribute to strengthening the effectiveness and credibility of the Al-Qaida sanctions regime.

Annex

Status of cases

Case 1, one individual (Status: denied)

Date	*Description*
28 July 2010	Transmission of case 1 to the Committee
28 February 2011	Comprehensive report submitted to the Committee
10 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision
1 September 2011	Formal notification to petitioner with reasons

Case 2, Safet Ekrem Durguti (Status: delisted)

Date	*Description*
30 September 2010	Transmission of case 2 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 3, one entity (Status: delisting request withdrawn by petitioner)

Date	*Description*
3 November 2010	Transmission of case 3 to the Committee
14 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 August 2011	Withdrawal of petition

Case 4, Shafiq Ben Mohamed Ben Mohammed Al Ayadi (Status: delisted)

Date	*Description*
6 December 2010	Transmission of case 4 to the Committee
29 June 2011	Comprehensive report submitted to the Committee

Date	*Description*
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 October 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 5, Tarek Ben Al-Bechir Ben Amara Al-Charaabi (Status: delisted)

Date	*Description*
30 December 2010	Transmission of case 5 to the Committee
26 April 2011	Comprehensive report submitted to the Committee
31 May 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 June 2011	Committee decision to delist
12 August 2011	Formal notification to petitioner with reasons

Case 6, Abdul Latif Saleh (Status: delisted)

Date	*Description*
14 January 2011	Transmission of case 6 to the Committee
17 June 2011	Comprehensive report submitted to the Committee
26 July 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 August 2011	Committee decision to delist
8 November 2011	Formal notification to petitioner with reasons

Case 7, Abu Sufian Al-Salamabi Muhammed Ahmed Abd Al-Razziq (Status: delisted)

Date	*Description*
28 January 2011	Transmission of case 7 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
15 November 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 November 2011	Committee decision to delist
13 February 2012	Formal notification to petitioner with reasons

Case 8, Ahmed Ali Nur Jim'ale and 23 entities[a] (Status: delisted)

Date	*Description*
17 March 2011	Transmission of case 8 to the Committee
23 September 2011	Comprehensive report submitted to the Committee
13 December 2011	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 December 2011	Committee decision to delist six entities
21 February 2012	Committee decision to delist one individual and 17 entities
8 June 2012	Formal notification to petitioner with reasons

[a] Barakaat North America, Inc., Barakat Computer Consulting, Barakat Consulting Group, Barakat Global Telephone Company, Barakat Post Express, Barakat Refreshment Company, Al Baraka Exchange, LLC, Barakaat Telecommunications Co. Somalia, Ltd., Barakaat Bank of Somalia, Barako Trading Company, LLC, Al-Barakaat, Al-Barakaat Bank, Al-Barakaat Bank of Somalia, Al-Barakat Finance Group, Al-Barakat Financial Holding Co., Al-Barakat Global Telecommunications, Al-Barakat Group of Companies Somalia Limited, Al-Barakat International, Al-Barakat Investments, Barakaat Group of Companies, Barakaat Red Sea Telecommunications, Barakat International Companies and Barakat Telecommunications Company Limited.

Case 9, Saad Rashed Mohammed Al-Faqih and Movement for Reform in Arabia (Status: delisted)

Date	*Description*
19 April 2011	Transmission of case 9 to the Committee
21 February 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 July 2012	Committee decision to delist
13 November 2012	Formal notification to petitioner with reasons

Case 10, Ibrahim Abdul Salam Mohamed Boyasseer (Status: delisted)

Date	*Description*
6 May 2011	Transmission of case 10 to the Committee
9 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 11, Mondher ben Mohsen ben Ali al-Baazaoui (Status: delisted)

Date	*Description*
1 June 2011	Transmission of case 11 to the Committee
19 January 2012	Comprehensive report submitted to the Committee
1 March 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 March 2012	Committee decision to delist
10 July 2012	Formal notification to petitioner with reasons

Case 12, Kamal ben Mohamed ben Ahmed Darraji (Status: delisted)

Date	*Description*
30 June 2011	Transmission of case 12 to the Committee
28 February 2012	Comprehensive report submitted to the Committee
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
4 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 13, Fondation Secours Mondial (Status: amended[b])

Date	*Description*
7 July 2011	Transmission of case 13 to the Committee
14 December 2011	Comprehensive report submitted to the Committee
24 January 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
17 February 2012	Committee decision to amend
9 July 2012	Formal notification to petitioner with reasons

[b] Amended to be removed as an alias of Global Relief Foundation (QE.G.91.02.).

Case 14, Sa'd Abdullah Hussein al-Sharif (Status: delisted)

Date	*Description*
20 July 2011	Transmission of case 14 to the Committee
29 February 2012	Comprehensive report submitted to the Committee

Date	*Description*
3 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
27 April 2012	Committee decision to delist
5 June 2012	Formal notification to petitioner with reasons

Case 15, Fethi ben al-Rebei Absha Mnasri (Status: delisted)

Date	*Description*
4 August 2011	Transmission of case 15 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 16, Mounir Ben Habib Ben al-Taher Jarraya (Status: delisted)

Date	*Description*
15 August 2011	Transmission of case 16 to the Committee
9 March 2012	Comprehensive report submitted to the Committee
17 April 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 May 2012	Committee decision to delist
3 August 2012	Formal notification to petitioner with reasons

Case 17, Rachid Fettar (Status: delisted)

Date	*Description*
26 September 2011	Transmission of case 17 to the Committee
27 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 18, Ali Mohamed El Heit (Status: delisted)

Date	*Description*
5 October 2011	Transmission of case 18 to the Committee
2 May 2012	Comprehensive report submitted to the Committee
3 July 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
19 July 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 19, Yassin Abdullah Kadi (listed as Yasin Abdullah Ezzedine Qadi) (Status: delisted)

Date	*Description*
16 November 2011	Transmission of case 19 to the Committee
11 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
5 October 2012	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 20, Chabaane ben Mohamed ben Mohamed al-Trabelsi (Status: delisted)

Date	*Description*
21 November 2011	Transmission of case 20 to the Committee
23 April 2012	Comprehensive report submitted to the Committee
5 June 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 June 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 21, Adel Abdul Jalil Ibrahim Batterjee (Status: delisted)

Date	*Description*
3 January 2012	Transmission of case 21 to the Committee
10 October 2012	Comprehensive report submitted to the Committee

Date	*Description*
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 January 2013	Committee decision to delist
5 September 2013	Formal notification to petitioner with reasons

Case 22, Ibrahim ben Hedhili ben Mohamed al-Hamami (Status: delisted)

Date	*Description*
6 February 2012	Transmission of case 22 to the Committee
25 September 2012	Comprehensive report submitted to the Committee
6 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 November 2012	Committee decision to delist
7 February 2013	Formal notification to petitioner with reasons

Case 23, Suliman Hamd Suleiman Al-Buthe (Status: delisted) (Repeated request)

Date	*Description*
23 February 2012	Transmission of case 23 to the Committee
30 August 2012	Comprehensive report submitted to the Committee
27 November 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
10 February 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 24, Mamoun Darkazanli (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 24 to the Committee
12 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 March 2013	Committee decision to delist
30 August 2013	Formal notification to petitioner with reasons

Case 25, Abdullahi Hussein Kahie (Status: delisted)

Date	*Description*
28 February 2012	Transmission of case 25 to the Committee
26 July 2012	Comprehensive report submitted to the Committee
10 September 2012	Presentation of the comprehensive report by the Ombudsperson to the Committee
26 September 2012	Committee decision to delist
19 December 2012	Formal notification to petitioner with reasons

Case 26, Usama Muhammed Awad Bin Laden (Status: delisted) Ombudsperson case became moot following the Committee's decision of 21 February 2013

Date	*Description*
23 April 2012	Transmission of case 26 to the Committee
15 February 2013	Comprehensive report submitted to the Committee
21 February 2013	Committee decision to delist

Case 27, one individual (Status: denied)

Date	*Description*
7 May 2012	Transmission of case 27 to the Committee
11 February 2013	Comprehensive report submitted to the Committee
7 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
7 May 2013	Committee decision to retain listing
12 June 2013	Formal notification to petitioner with reasons

Case 28, one individual (Status: denied)

Date	*Description*
7 June 2012	Transmission of case 28 to the Committee
20 November 2012	Comprehensive report submitted to the Committee
8 January 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
8 January 2013	Committee decision to retain listing
29 January 2013	Formal notification to petitioner with reasons

Case 29, Muhammad 'Abdallah Salih Sughayr (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 29 to the Committee
9 April 2013	Comprehensive report submitted to the Committee
21 May 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
20 July 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 30, Lajnat Al Daawa Al Islamiya (LDI) (Status: delisted)

Date	*Description*
25 July 2012	Transmission of case 30 to the Committee
15 April 2013	Comprehensive report submitted to the Committee
2 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 September 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 31, Abd al Hamid Sulaiman Muhammed al-Mujil (Status: delisted)

Date	*Description*
1 August 2012	Transmission of case 31 to the Committee
13 March 2013	Comprehensive report submitted to the Committee
30 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 June 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 32, Mohamed ben Mohamed ben Khalifa Abdelhedi (Status: delisted)

Date	*Description*
19 September 2012	Transmission of case 32 to the Committee
5 March 2013	Comprehensive report submitted to the Committee

Date	*Description*
16 April 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
1 May 2013	Committee decision to delist

Case 33, Mohammed Daki (Status: delisted)

Date	*Description*
12 October 2012	Transmission of case 33 to the Committee
28 May 2013	Comprehensive report submitted to the Committee
30 July 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
16 August 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 34, Abdelghani Mzoudi (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 18 March 2013

Date	*Description*
8 November 2012	Transmission of case 34 to the Committee
18 March 2013	Committee decision to delist

Case 35, International Islamic Relief Organization, Philippines, Branch Offices (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 35 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 36, International Islamic Relief Organization, Indonesia, Branch Offices (Status: delisted)

Date	*Description*
13 December 2012	Transmission of case 36 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 37, Jaber Abdullah Jaber Ahmed Al-Jalahmah (Status: delisted)[c]

Date	*Description*
4 February 2013	Transmission of case 37 to the Committee
5 September 2013	Comprehensive report submitted to the Committee
1 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 January 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

[c] Jaber Abdullah Jaber Ahmed Al-Jalahmah was relisted on the same date by a separate Committee decision.

Case 38, Moustafa Abbas (listed as Moustafa Abbes) (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 38 to the Committee
12 August 2013	Comprehensive report submitted to the Committee
13 September 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
30 September 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 39, Atilla Selek (Status: delisted)

Date	*Description*
13 February 2013	Transmission of case 39 to the Committee
2 October 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 40, Youssef ben Abdul Baki Ben Youcef Abdaoui (Status: delisted)

Date	*Description*
4 March 2013	Transmission of case 40 to the Committee
14 November 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
14 April 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 41, L'hadi Bendebka (listed as Abdelhadi Ben Debka) (Status: delisted)

Date	*Description*
12 March 2013	Transmission of case 41 to the Committee
14 October 2013	Comprehensive report submitted to the Committee
3 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
18 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 42, Youcef Abbas (listed as Youcef Abbes) (Status: delisted)

Date	*Description*
4 March 2013	Transmission of case 42 to the Committee
2 October 2013	Comprehensive report submitted to the Committee

Date	*Description*
15 November 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
3 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 43, Said Yousef AbouAziz (listed as Said Youssef Ali Abu Aziza) (Status: delisted)
Ombudsperson case became moot following the Committee's decision of 26 August 2013

Date	*Description*
27 March 2013	Transmission of case 43 to the Committee
26 August 2013	Committee decision to delist

Case 44, one individual (Status: denied)

Date	*Description*
2 May 2013	Transmission of case 44 to the Committee
4 February 2014	Comprehensive report submitted to the Committee
21 April 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
21 April 2014	Committee decision to retain listing
30 July 2014	Formal notification to petitioner with reasons

Case 45, one individual (Status: denied)

Date	*Description*
6 May 2013	Transmission of case 45 to the Committee
9 December 2013	Comprehensive report submitted to the Committee
11 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
11 February 2014	Committee decision to retain listing
17 March 2014	Formal notification to petitioner with reasons

Case 46, Yacine Ahmed Nacer (Status: delisted)

Date	*Description*
10 May 2013	Transmission of case 46 to the Committee
30 December 2013	Comprehensive report submitted to the Committee
25 February 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
13 March 2014	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 47, Nabil Benatia (listed as Nabil ben Mohamed ben Ali ben Attia) (Status: delisted)

Date	*Description*
3 June 2013	Transmission of case 47 to the Committee
12 November 2013	Comprehensive report submitted to the Committee
13 December 2013	Presentation of the comprehensive report by the Ombudsperson to the Committee
31 December 2013	Committee decision to delist
25 August 2014	Formal notification to petitioner with reasons

Case 48, Wael Hamzah Jelaidan (listed as Wa'el Hamza Abd al-Fatah Julaidan) (Status: delisted)

Date	*Description*
17 June 2013	Transmission of case 48 to the Committee
19 March 2014	Comprehensive report submitted to the Committee
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
25 August 2014	Committee decision to delist
29 October 2014	Formal notification to petitioner with reasons

Case 49, one individual (Status: denied)

Date	*Description*
24 June 2013	Transmission of case 49 to the Committee
3 April 2014	Comprehensive report submitted to the Committee

Date	*Description*
24 June 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
24 June 2014	Committee decision to retain listing
10 September 2014	Formal notification to petitioner with reasons

Case 50, Al-Haramain Foundation (USA) (Status: delisted)

Date	*Description*
5 September 2013	Transmission of case 50 to the Committee
30 June 2014	Comprehensive report submitted to the Committee
26 August 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
25 October 2014	Committee decision to delist
29 December 2014	Formal notification to petitioner with reasons

Case 51, Aqeel Abdulaziz Aqeel Al-Aqeel (Status: delisted)

Date	*Description*
28 October 2013	Transmission of case 51 to the Committee
18 August 2014	Comprehensive report submitted to the Committee
31 October 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 January 2015	Committee decision to delist

Case 52, one individual (Status: dialogue phase)

Date	*Description*
27 May 2014	Transmission of case 52 to the Committee
27 February 2015	Extended deadline for completion of the information-gathering phase

Case 53, one individual (Status: Committee phase)

Date	*Description*
13 June 2014	Transmission of case 53 to the Committee
9 December 2014	Comprehensive report submitted to the Committee
29 January 2015	Presentation of the comprehensive report by the Ombudsperson to the Committee

Case 54, one individual (Status: dialogue phase)

Date	*Description*
19 June 2014	Transmission of case 54 to the Committee
5 March 2015	Extended deadline for completion of the dialogue phase

Case 55, Ismail Mohamed Ismail Abu Shaweesh (Status: delisted)

Date	*Description*
23 June 2014	Transmission of case 55 to the Committee
10 November 2014	Comprehensive report submitted to the Committee
16 December 2014	Presentation of the comprehensive report by the Ombudsperson to the Committee
2 January 2015	Committee decision to delist

Case 56, one individual (Status: dialogue phase)

Date	*Description*
5 September 2014	Transmission of case 56 to the Committee
5 March 2015	Deadline for completion of the dialogue phase

Case 57, one individual (Status: information-gathering phase)

Date	*Description*
9 September 2014	Transmission of case 57 to the Committee
9 February 2015	Extended deadline for completion of the information-gathering phase

Case 58, one individual (Status: information-gathering phase)

Date	*Description*
30 August 2014	Transmission of case 58 to the Committee
12 March 2015	Extended deadline for completion of the information-gathering phase

Case 59, one individual (Status: information-gathering phase)

Date	*Description*
30 September 2014	Transmission of case 59 to the Committee
26 February 2015	Extended deadline for completion of the information-gathering phase

Case 60, one individual (Status: information-gathering phase)

Date	*Description*
10 November 2014	Transmission of case 60 to the Committee
10 March 2015	Deadline for completion of the information-gathering phase

Case 61, one individual (Status: information-gathering phase)

Date	*Description*
19 January 2015	Transmission of case 61 to the Committee
19 May 2015	Deadline for completion of the information-gathering phase